

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY  D.C.

05 DEC 15 AM 7:05

LUTHER HICKS and  
ROBIN HICKS,

Plaintiffs,

v.

No. 05-2506 B

ALMOND RV, INC., et al.,

Defendants.

THOMAS W. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

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ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION  
FOR LEAVE TO FILE REPLY TO PLAINTIFFS' MEMORANDUM IN RESPONSE  
TO DEFENDANT FREIGHTLINER'S MOTION TO DISMISS

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Before the Court is the December 14, 2005 motion of the Defendant, Freightliner LLC, for leave to file a reply to the memorandum of the Plaintiffs, Luther Hicks and Robin Hicks, in response to the Defendant's motion to dismiss certain claims. The Local Rules of the United States District Court for the Western District of Tennessee (the "Local Rules") require that motions be accompanied by a certificate of consultation "affirming that, after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion." LR7.2(a)(1)(B), Local Rules. The certificate of consultation

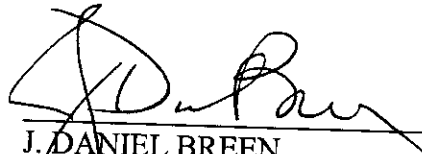
must contain the names of participating counsel and the date and manner of consultation. The burden will be on counsel filing the motion to initiate the conference upon giving reasonable notice of the time, place and specific nature of the conference. If an opposing counsel or party refuses to cooperate in the conduct of a conference, counsel must file a certificate to that effect, setting out counsel's efforts to comply with this rule.

LR7.2(a)(1)(B), Local Rules (internal footnote omitted). In this case, there is no indication

Defendant's counsel conferred with attorneys for the Plaintiffs on the matter which is the subject of the motion or that any attempt was made to do so. "Failure to file an accompanying certificate of consultation may be deemed good grounds for denying the motion." LR7.2(a)(1)(B), Local Rules.

As the motion is procedurally defective, it is hereby DENIED without prejudice.

IT IS SO ORDERED this 14<sup>th</sup> day of December, 2005.

  
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J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 13 in case 2:05-CV-02506 was distributed by fax, mail, or direct printing on December 16, 2005 to the parties listed.

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Honorable J. Breen  
US DISTRICT COURT